

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

MONTINA SHEPARD,

Plaintiff,

v.

Case No. 8:19-cv-1038-T-AEP

ANDREW M. SAUL,
Commissioner of Social Security,

Defendant.

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ORDER

This cause comes before the Court upon the Motion for Attorney's Fees Under 42 U.S.C. § 406(b) (Doc. 27). On December 18, 2019, this Court entered an Order reversing and remanding the decision of the Commissioner under sentence four of 42 U.S.C. § 405(g) (Doc. 23). Upon remand, the Commissioner issued a favorable decision for Plaintiff resulting in an award of disability benefits (Doc. 27-1). As a result of the favorable decision, Plaintiff's counsel now seeks payment of fees in the amount of \$27,783.25 pursuant to 42 U.S.C. § 406(b).

The Court previously awarded Plaintiff's fees in the amount of \$4,022.35 pursuant to the EAJA (Doc. 26). Plaintiff's counsel seeks payment of fees in the amount of \$27,783.25 pursuant to 42 U.S.C. § 406(b).

Under 42 U.S.C. § 406(b), when a court renders a judgment favorable to a Social Security claimant who was represented before the court by counsel, the court may allow a reasonable fee for such representation, not to exceed twenty-five percent of the total past-due benefits to which the claimant is entitled. 42 U.S.C. § 406(b)(1)(A). A plaintiff's counsel may recover attorneys' fees under both 42 U.S.C. § 406(b) and EAJA. *Gisbrecht v. Barnhart*, 535

U.S. 789, 796 (2002). The plaintiff's attorney must, however, refund to the plaintiff the amount of the smaller fee. *Id.* Here, the Social Security Administration withheld a total of \$27,783.25 from Plaintiff's past-due benefits for possible payment of attorney's fees in federal court (Doc. 27-1). Upon review of the fee agreement (Doc. 27-2) and the itemization of services rendered by counsel (Doc. 27-3), the Court determines that an award of fees in the amount of \$27,783.25 is reasonable and appropriate. Accordingly, it is hereby

ORDERED:

1. Plaintiff's request for an award of attorney's fees under 42 U.S.C. § 406(b) (Doc. 27) is GRANTED.
2. Plaintiff's counsel is awarded fees in the amount of \$27,783.25 pursuant to 42 U.S.C. § 406(b).

DONE AND ORDERED in Tampa, Florida, on this 16th day of December, 2020.



ANTHONY E. PORCELLI
United States Magistrate Judge

cc: Counsel of Record